

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)	
)	CASE NO. CR21-118 JLR
Plaintiff,)	
)	
v.)	
)	ORDER DENYING MOTION FOR
JALEN AZIZ,)	RELEASE ON BOND
)	
Defendant.)	
_____)	

This matter comes before the Court on Defendant's motion to reopen the detention hearing and for release on bond. Dkt. 21. On November 3, 2021, the Court heard from counsel for the Defendant and the government, as well as Mr. Sampson, the Director of the YMCA Alive and Free Program. After hearing argument from the parties and with input from the United States Probation Office, the Court granted a two-week continuance to allow defense counsel to obtain further information on inpatient drug treatment options. On November 16, 2021, counsel for Defendant sought a further continuance. For the reasons set forth below, the Court DENIES the request to continue the hearing, and DENIES the motion for release on bond.

ORDER DENYING MOTION FOR RELEASE

PROCEDURAL AND FACTUAL BACKGROUND

On July 8, 2021, the government arrested the Defendant pursuant to a Complaint. Dkt. 1. The government filed a Motion for Detention that same day and Defendant initially stipulated to detention. Dkt. 4, 5. On July 23, 2021, the Defendant filed a motion to reopen his Detention Hearing. Dkt. 13. The government did not oppose. On July 28, 2021, a Detention Hearing was held before this Court. Dkt. 16. During the hearing, defense counsel told the Court that the Defendant had begun intake for Community Passageways, a community-based program that works to help young people successfully integrate into the community after criminal justice involvement. After hearing argument from counsel for the parties, the Court ordered the Defendant detained pending trial, and issued a Detention Order. Dkt. 17.

On October 8, 2021, the Defendant moved to reopen the Detention Hearing based on information that the Defendant had been denied admission to Community Passageways, but had been accepted to the YMCA's Alive and Free program. Dkt. 21. On November 3, 2021, the Court heard argument on the Motion from counsel for the Defendant and the government, and also heard information about the YMCA Alive and Free program from Mr. Sampson, Director of the program. Counsel for Defendant informed that Court that Ollala Recovery Center had completed an intake review with Defendant for inpatient drug treatment and had declined to offer him services. After hearing argument from the parties and with input from the United States Probation Office, the Court granted a two-week continuance to allow defense counsel to obtain further information on alternative inpatient drug treatment

ORDER DENYING MOTION FOR RELEASE

PAGE -2

01 options. On November 16, 2021, counsel for Defendant sought a further continuance.

02 **DISCUSSION**

03 The Court may reopen a detention hearing “if the judicial officer finds that
04 information exists that was not known to the movant at the time of the hearing and that has a
05 material bearing on the issue whether there are conditions of release that will reasonably
06 assure the appearance of such person as required and the safety of any other person and the
07 community.” 18 U.S.C. § 3142(f)(2). Here, the Defendant’s motion presented new
08 information regarding participation in a community-based mentoring program, and the Court
09 sought information on the availability of inpatient drug treatment and an update on the status
10 of the active warrant from King County Superior Court.

11 At the hearing on November 3, 2021, the government proffered that the warrant from
12 King County remained active and involved a bail amount of \$150,000 after Defendant failed to
13 appear for arraignment. The government confirmed that Defendant would be picked up on
14 the warrant if he were released by the Court, although the outcome of any request to reduce
15 the set bail amount could not be forecast. Defense counsel noted that Defendant had
16 completed an intake with Ollala Recovery Centers, but Ollala had determined they could not
17 offer services to Defendant. Further, because Defendant had private insurance, any treatment
18 would likely have to be privately funded. None of the drug treatment centers were lockdown
19 facilities, although Defendant could be fitted with a GPS location monitor.

20 The government proffered that the investigation had continued with respect to
21 Defendant’s alleged criminal conduct, revealing that he had a separate Snapchat account that
22

ORDER DENYING MOTION FOR RELEASE

01 raised concerns regarding involvement in identify theft, and that Defendant appeared to be
 02 involved in recruiting others into this criminal conduct. Further information from
 03 Defendant's Snapchat accounts suggested that he had been in possession of firearms for a
 04 longer period than previously known, including the time period December 2020 to February
 05 2021, and had offered a firearm for sale. The United States Probation Office reported that
 06 inpatient drug treatment would not mitigate the risks presented by Defendant's criminal
 07 history and association with firearms.

08 The United States typically bears the burden of showing that defendant poses a danger
 09 to the community by clear and convincing evidence, and it bears the burden of showing that a
 10 defendant poses a flight risk by a preponderance of the evidence. *United States v. Gebro*,
 11 948 F.2d 1118, 1120 (9th Cir. 1991). However, the Bail Reform Act expressly provides that:

12 [s]ubject to rebuttal by the person, it shall be presumed that no
 13 condition or combination of conditions will reasonably assure the
 14 appearance of the person as required and the safety of the
 15 community if the judicial officer finds that there is probable cause
 16 to believe that the person committed an offense for which a
 17 maximum term of imprisonment of ten years or more is prescribed
 18 in the Controlled Substances Act (21 U.S.C. 801 et seq.) . . . or an
 19 offense under section 924(c) . . . of title 18 of the United States Code
 20 . . .
 21 18 U.S.C. § 3142(e).

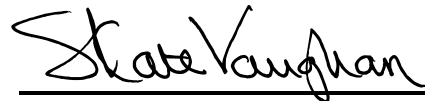
22 Here, Defendant cannot overcome the presumption that he is both a risk of flight and a
 danger to the community in light of the facts relevant to the 18 U.S.C. § 3142(g) factors¹,

¹ A Court deciding a detention issue is to consider the following factors: (1) the "nature and circumstances of the offense charged," (2) the "weight of the evidence against" the defendant, (3) the "history and characteristics" of the defendant, including his "character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning

01 already set forth in the Court's detention order. Dkt. 17. At this time there is no inpatient
02 treatment plan in place, and even if a program were available, no facilities appear to offer the
03 level of security that would mitigate Defendant's danger to the community in light of his
04 criminal history and recent and repeated association with firearms. Although the mentoring
05 program offered by Alive and Free offers a valuable service to the community, it too does not
06 offer the level of wrap around services that would sufficiently mitigate the risks presented by
07 Defendant in terms of both danger to the community and risk of nonappearance.

08 The motions to continue and for release on bond are DENIED.

09 DATED this 16th day of November, 2021.

10 
11

12 S. KATE VAUGHAN
13 United States Magistrate Judge
14
15
16
17
18
19
20

21 _____
22 appearance at court proceedings,” and (4) ”the nature and seriousness of the danger to any person or
the community that would be posed by the person's release.” 18 U.S.C. § 3142(g).

ORDER DENYING MOTION FOR RELEASE